



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

28 APR 2008

23630
MCDERMOTT WILL & EMERY LLP
28 State Street
Boston, MA 02109-1775

In re Application of
GOMEZ AMOR *et al*
U.S. Application No.: 10/582,005
PCT No.: PCT/ES2004/000477
Int. Filing Date: 29 October 2004
Priority Date: 12 November 2003
Attorney Docket No.: 076283.0011
For: PERFECTED 3 WAY STOPCOCK

DECISION

This petition is in response to the papers filed on 14 February 2008 which are treated as a petition under 37 CFR 1.8(b). No fee is required.

BACKGROUND

On 06 December 2006, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration was required. Applicant was given two months to respond with extensions of time available.

On 02 February 2007, applicant purportedly filed a response containing an executed declaration via facsimile. However, these papers are not located in the file.

On 08 February 2008, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909), indicating that the application went abandoned for failure to timely reply to the Form PCT/DO/EO/905 mailed 06 December 2006.

On 14 February 2008, applicant filed the subject petition.

DISCUSSION

In the petition filed 14 February 2008, applicant's claim to have responded to the Form PCT/DO/EO/905 via facsimile transmission on 02 February 2007. However, this response is not present in the file. As such, the subject application went abandoned for failure to respond to an office action.

37 CFR 1.8 *Certificate of mailing or transmission*, states in part:

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but

10/582,005

not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Here, applicant provided a copy of the documents purportedly filed 02 February 2007. Applicant also included a copy of the "Auto-Reply Facsimile Transmission" received from the USPTO. In addition, applicant's statements in the petition are sufficient to satisfy item (3) of 37 CFR 1.8(b).

A review of the evidence shows that the USPTO received a facsimile on 02 February 2007. The "Auto-Reply Facsimile Transmission" certifies that 4 pages (incl. Cover) were received by the USPTO. Moreover, the response and declaration submitted as copies of what was filed list the proper U.S. application number, title and applicant.

This evidence meets the requirements of 37 CFR 1.8(b) and is sufficient for a grantable petition.

CONCLUSION

Applicant's petition under 37 CFR 1.8(b) is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 08 February 2008 is hereby **VACATED**.

The declaration originally filed 02 February 2007 is in compliance with 37 CFR 1.497(a) and (b).

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 29 October 2004, under 35

10/582,005

U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 02 February 2007.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302